



Quarterly Compliance Report

July – September 2010

October 2010

© Commonwealth of Australia 2010

This work is copyright. Apart from any use permitted by the *Copyright Act 1968* (Cth), no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and enquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission (ACCC), GPO Box 3131, Canberra ACT 2601.

Enquiries about this report should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Telephone: (03) 9290 1444
Fax: (03) 9290 1457
Email: AERInquiry@aer.gov.au

Reference: D10/3683656

Contents

Glossary	1
Executive Summary	2
1 Introduction	4
2 Gas	6
2.1 Investigations, market events and compliance issues	6
2.1.1 Victorian gas market—rescheduling errors	6
2.1.2 Victorian gas market—settlement payments	7
2.1.3 Bulletin Board—data provision	7
2.1.4 Bulletin Board—linepack capacity adequacy flags	8
2.1.5 Short Term Trading Market	8
2.2 Targeted compliance reviews	9
2.2.1 Offer to connect	9
2.2.2 Maintenance planning	11
2.2.3 Capacity information and facility allocations	12
2.2.4 Upcoming targeted compliance reviews	14
3 Electricity	15
3.1 Investigations, market events and compliance issues	15
3.1.1 Compliance with clause 5.6.6 of the Electricity Rules	15
3.1.2 Metering	16
3.1.3 Rebidding	17
3.1.4 Spot and ancillary services high price events	19
3.2 Audits	20
3.3 Targeted compliance reviews	20
3.3.1 Short term projected assessment of system availability	21
3.3.2 Dispatch related limitations	23
3.3.3 Metering register obligations	24
3.3.4 Upcoming targeted compliance reviews	25
3.4 Jurisdictional derogations	26
Appendix A: Targeted rule provisions summary	27

Glossary

ACCC	Australian Competition & Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator (website at www.aer.gov.au)
Bulletin Board	The Natural Gas Services Bulletin Board provided for under the Gas Law, and commonly known as the National Gas Market Bulletin Board
B2B	Business to Business
CSDN	Customer Site Details Notification
CT	Current Transformer
Electricity Law	National Electricity Law (a Schedule to the National Electricity Act)
Electricity Regulations	The National Electricity (South Australia) Regulations made under the National Electricity Act
Electricity Rules	The National Electricity Rules made under Part 7 of the Electricity Law
Gas Law	National Gas Law (a Schedule to the National Gas Act)
Gas Regulations	The National Gas (South Australia) Regulations made under the National Gas Act
Gas Rules	The National Gas Rules made under Part 9 of the Gas Law
GJ	Giga Joule
GMCC	Gas Market Consultative Committee
LCA	Linepack capacity adequacy
LNSP	Local Network Service Provider
MPP	Maintenance Planning Procedures
MSATS	Market Settlement and Transfer Solution
MSOR	Market and System Operations Rules (for the Victorian gas market as subsumed and written into Part 19 of the Gas Rules)
MWh	Mega Watt per hour
National Electricity Act	National Electricity (South Australia) Act 1996 (South Australia)
National Gas Act	National Gas (South Australia) Act 2008 (South Australia)
NEM	The National Electricity Market being the electricity wholesale exchange operated and administered by AEMO, and the national electricity system, which covers the following regions: Queensland, New South Wales, Victoria , South Australia, and Tasmania
NMI	National Metering Identifier
NSP	Network Service Provider
ST PASA	Short Term Projected Assessment of System Adequacy
STTM	Short Term Trading Market provided for under the Gas Law
Victorian gas market	The Victorian Declared Wholesale gas market established under the Gas Law
VoLL	Value of Lost Load
VTS	Victorian Transmission System (underpinning the Victorian gas market)
\$5,000/MWh report	Reports issued by the AER under clause 3.13.7(d) of the Electricity Rules

Executive Summary

The Australian Energy Regulator (**AER**) is responsible for compliance monitoring, reporting and enforcement under legislation and rules governing Australia's wholesale energy markets. Section 15 of the National Electricity Law¹ (**Electricity Law**) and section 27 of the National Gas Law² (**Gas Law**) set out the functions and powers of the AER, which include:

- monitoring compliance by energy industry participants³ and other persons
- investigating breaches, or possible breaches, of provisions of the legislative instruments under the AER's jurisdiction.

This report outlines the compliance, monitoring and enforcement activity of the AER over the period 1 July 2010 to 30 September 2010 (**the September 2010 quarter**).⁴

With respect to gas, the AER monitors, investigates and enforces compliance with the National Gas Rules (**Gas Rules**) as well as the Gas Law and Regulations (**Gas Regulations**). In this report, the AER provides an update on:

- recent operating scheduling errors in the Victorian declared wholesale gas market (**Victorian gas market**)
- delayed provision of data in the Natural Gas Services Bulletin Board (**Bulletin Board**)
- commencement of the Short Term Trading Market (**STTM**) for natural gas and data provision issues.

The report also covers targeted compliance reviews of the Gas Rules relating to the Victorian gas market—specifically, the connection offer process under clause 273 and AEMO's maintenance planning process under clause 326.

¹ As enacted under the *National Electricity (South Australia) Act 1996* (SA).

² As enacted under the *National Gas (South Australia) Act 2008* (SA).

³ Entities registered by the Australian Energy Market Operator (**AEMO**) under Chapter 2 of the Electricity Rules or in accordance with Part 15A of the Gas Rules.

⁴ Previous reports available from <http://www.aer.gov.au/content/index.phtml/itemId/692887>.

The other completed targeted compliance reviews in gas relate to STTM provisions—namely, covered STTM provisions on the provision of capacity information (clause 414) and facility allocations by market participants (clause 419).

Under the electricity regime, the AER monitors, investigates and enforces compliance with the National Electricity Rules (**Electricity Rules**) as well as the Electricity Law and Regulations (**Electricity Regulations**). In this report, the AER provides an update on completed investigations and compliance matters. The report also covers:

- the conclusion of a review into TransGrid’s compliance with the Regulatory Test in relation to a proposed new transmission investment
- the review of the quality of reasons for rebids in the National Electricity Market (**NEM**)
- high price events affecting the wholesale spot price and ancillary services price
- updates on the AER’s technical compliance audit program
- the outcomes of targeted compliance reviews relating to:
 - short term projected assessments of system availability (clause 3.7.3)
 - dispatch limitations on generators (clause 4.9.4)
 - metering register discrepancies (clauses 7.5.1 and 7.5.2).

Appendix A lists all electricity and gas provisions targeted over the last four quarters.

1 Introduction

The AER undertakes compliance monitoring and enforcement activity pursuant to the Electricity Law and Rules and Gas Law and Rules.

Consistent with its statement of approach,⁵ the AER aims to promote high levels of compliance, and seeks to build a culture of compliance in the energy industry. A culture of compliance will:

- reduce the risk of industry participants breaching their regulatory obligations
- minimise penalties in the event of a breach
- ensure industry participants can engage confidently in commercial decisions and negotiations.

As part of this process, the AER undertakes a continuing compliance risk assessment of the Electricity Rules and Gas Rules to identify appropriate focus areas and monitoring mechanisms. The mechanisms include audits, targeted compliance reviews, market monitoring, and the imposition of reporting requirements.

In selecting Rule provisions for review, the AER adopts the following principles:

- consideration of risk (the greater the risk, the higher the priority)
- a commitment to ensuring that both systemic issues and those with the potential for isolated but significant impact are addressed

In carrying out its monitoring functions, the AER aims for:

- consistency over time
- cost effectiveness for energy industry participants and the AER
- transparency (subject to confidentiality requirements).

⁵ Available from the AER website at <http://www.aer.gov.au/content/index.phtml/itemId/685897/fromItemId/656069>.

While most obligations under the Electricity and Gas Rules do not require registered participants to establish specific compliance programs, the AER takes into account a participant's compliance culture when determining its enforcement response to breaches. In assessing a compliance culture the AER considers whether compliance programs and processes are effectively applied, up-to-date and tested regularly.

The AER welcomes comment and feedback from industry participants and other parties on matters of compliance, including the specific areas targeted, or proposed to be targeted, for review.

2 Gas

The AER is responsible for monitoring, investigating and enforcing compliance with the Gas Law and Gas Rules.

2.1 Investigations, market events and compliance issues

This part of the report provides an update on:

- completed investigations⁶
- market events
- other compliance matters and issues.

2.1.1 Victorian gas market—rescheduling errors

On 29 June 2010, an unintended gas scheduling result occurred when equally beneficial injection bids (to the market) were not scheduled to the same extent in accordance with rule 214(b). On this day, the market clearing engine⁷ should have—in accordance with Part 19 of the Gas Rules—pro-rated scheduled volumes between injection bids. On this occasion, however, the clearing engine did not do this and some bids were scheduled below what they should have been because of different response times or accreditations attached to the bids.

Following an investigation, AEMO concluded that the error occurred in the 2 pm and 6 pm schedules. AEMO estimated that the financial effect of this result was in the order of \$30,000. In its report and also at the Gas Wholesale Consultative Forum meeting of 22 July 2010, AEMO outlined its steps to prevent a recurrence of this result. This involved an interim solution (which AEMO discussed with the AER) involving discussions with affected participants on response time nominations.

⁶ Published investigation reports issued by the AER are available from its website at <http://www.aer.gov.au/content/index.phtml/itemId/656186>.

⁷ It is a linear optimisation program (which includes a simplified model of the pipeline system) that produces the operating and pricing schedules for the Victorian gas market.

In the longer term, AEMO has undertaken to revisit the accreditation process and its interaction with the market clearing engine.

2.1.2 Victorian gas market—settlement payments

Prompt settlement of market payments⁸ is required for effective trade activities within the Victorian gas market.

Due to AEMO's role in accepting payments and distributing those funds to relevant entities, any payment after the 12 noon deadline set out in clause 246 of the Gas Rules can result in a deficit in the funds available for distribution. It can also constitute a default event in accordance with clause 251(1)(a) of the Gas Rules.

On 28 July 2010, APA Facilities Management Pty Ltd failed to pay the settlement amount to AEMO in cleared funds within the prescribed deadline.

In this instance, AEMO did not issue a default notice but notified the AER. The participant has since advised it has implemented processes that should result in settlement payments being made on time from October 2010.

2.1.3 Bulletin Board—data provision

The AER monitors the quality and consistency of information posted on the Bulletin Board. It also receives regular reports from AEMO and the Bulletin Board operator, indicating whether data has been provided in accordance with obligations under Part 18 of the Gas Rules and the Bulletin Board procedures.

The AER gas weekly reports show trends in gas production and pipeline flows into regions across the national gas market. The reports, which are available on the AER website, highlight participant failures to submit information.⁹

Over time, the AER has noticed an improvement in the provision by participants of actual and forecast data to the Bulletin Board. In July and August 2010, however, there were instances where data was not provided as required under the Gas Rules. The participants involved are AEMO, Epic, Origin and Tas Gas.

⁸ As governed by Subdivision 6 of Division 2 under Part 19 of the Gas Rules.

⁹ Available from <http://www.aer.gov.au/content/index.phtml/itemId/729309>.

The AER understands that various instances were caused by password-related difficulties in accessing market systems, and that AEMO has taken steps to address such difficulties by increasing its helpdesk service to participants. The AER has written to the above participants to confirm their reasons for failing to provide data and any remedial actions taken.

2.1.4 Bulletin Board—linepack capacity adequacy flags

In the June 2009 quarterly compliance report, the AER noted room for improvement in Bulletin Board communications in relation to two linepack capacity adequacy (LCA) flag events, following inadequate notice to industry participants, the market operator and government bodies.

In August 2010, an amber LCA flag event caused Epic Energy to provide information to industry participants using the Bulletin Board's free text facility. Although the information provided gave notice of the event to relevant parties, further information in relation to whether the LCA flag was likely to be short-lived or not would have been of additional benefit.

The AER encourages producers and pipeline operators to review their obligations and better coordinate their communications—including through the full use of the Bulletin Board's free text facility—particularly in the event of outages or other events requiring changes to LCA flags.

2.1.5 Short Term Trading Market

The Short Term Trading Market (STTM) officially commenced in the Sydney and Adelaide hubs on 1 September 2010. The AER now monitors trading activity in the market and enforces compliance with Part 20 of the Gas Rules.

As outlined in previous quarterly compliance report, the AER took measures in readiness for this role prior to STTM commencement. The AER has established data systems that rely on public and non-public data provided by AEMO to complement compliance monitoring and inform the AER's weekly market reporting. The aim of the reports is to provide transparent, accessible information about STTM outcomes.

Under Part 20 of the Gas Rules, the AER must also develop significant price variation guidelines. The guidelines will establish the threshold for AER publishing a significant price variation report. The AER considers these guidelines should be developed after several months of data is available, so that the AER can identify appropriate thresholds. In the meantime, STTM events that are considered significant will feature in the AER weekly reporting or additional market reports.

The AER will also continue its targeted compliance reviews to promote participants' awareness of STTM obligations and to assist in identifying any compliance issues that may exist.

2.2 Targeted compliance reviews

Targeted compliance reviews form an important part of the AER's compliance monitoring program. As set out in part 1 of this report, the reviews explore participants' compliance practices and aim to improve stakeholder understanding of obligations. Table 1 below lists the provisions targeted in the September 2010 quarter.¹⁰

Table 1: Gas Rules—provisions targeted for review

Gas Rules Clause	Relevant parties (subject to current review)	Obligation	No. of targeted participants
273	Victorian gas market transmission system service provider	Offer to connect	1
326	AEMO	Maintenance planning	1
414	STTM participants	Capacity information	4
419		Facility allocations	

2.2.1 Offer to connect

The AER requested information from APA GasNet, in its capacity as the sole service provider for the Victorian transmission system (VTS), regarding its obligations on making offers to connection applicants.

¹⁰ Appendix A of this report lists all provisions targeted over the last four quarters.

Under clause 273 of the Gas Rules, APA GasNet is required, within 20 business days after a proposed connection has been approved by AEMO, to make an offer to a connection applicant. The offer must contain terms and conditions that are a fair and reasonable, and that seek to meet the applicant's reasonable requirements. It must also be consistent with the relevant access arrangement and not prejudice the security of the VTS.

The AER requested information from APA GasNet including:

- the systems and processes it has in place to process connection applications and to make offers to connect in a timely manner
- how it ensures that the requirements of fairness and reasonableness in connection offers are met.

Response summary

APA GasNet considers itself to be in compliance with its obligations under clause 273. It maintains a register of connection application enquiries which allows it to monitor enquiries throughout the phases of development. It also has guidelines and policies on how offers are to be made.

To ensure that offers contain the relevant terms and conditions and are consistent with the applicable access arrangement, and with the security of the transmission system, APA has developed a pro-forma connection agreement. APA GasNet considers that all its negotiations are conducted in good faith.

APA GasNet consults with connection applicants throughout the application process to ensure that relevant timelines are satisfied. It is not aware of any circumstances where timeline obligations have not been met.

APA GasNet commented that there is not a high volume of applications at the transmission level and so a complex monitoring system is not required.

Review outcomes

Clause 273 establishes a framework to ensure that offers to connect to the VTS are made within the prescribed timeframe, and in a manner that is fair and reasonable and not prejudicial to system security.

On the basis of the responses received, the AER is satisfied that APA GasNet appears to have processes in place to ensure compliance with its connection offer obligations under clause 273 of the Gas Rules.

2.2.2 Maintenance planning

The AER wrote to AEMO regarding its maintenance planning procedures for the Victorian gas market. Under clause 326 of the Gas Rules, AEMO must coordinate maintenance planning amongst relevant service and storage providers to ensure that system security does not come under threat from the unavailability of equipment undergoing maintenance.

Specifically, the clause requires AEMO to develop coordination procedures for such functions as the process of notifying and approving planned maintenance, or that for collecting and potentially releasing confidential information.

The AER requested information on, among other things:

- AEMO's maintenance planning procedures as required under rule 326(2)
- the effectiveness of those procedures, by reference to any instances where they may have had a material and/or adverse effect on the market.

Response summary

AEMO indicated that its Maintenance Planning Procedures¹¹ (MPP) were published on 1 July 2009. The MPP set out the procedures and requirements on AEMO and other relevant parties to ensure compliance with the Gas Rules and, in particular, clause 326. Relevant service and storage providers must submit forecast maintenance requirements to AEMO, and notify it of any unscheduled maintenance required or changes to planned maintenance, on an ongoing basis.

In general, AEMO approves requests for system maintenance unless it reasonably considers the maintenance plan will threaten system security. Where AEMO considers the plan may be a threat, it may still allow the maintenance if it is in the interests of safety or to prevent damage to property.

¹¹ NGR version 1.0.

Additionally, where information received from participants is confidential, AEMO will also consider releasing it if the availability of such information would assist with addressing a threat to system security.

In terms of threats to system security arising from maintenance planning, AEMO advised that there have been no such instances. However, AEMO noted an incident on 22 November 2008 when a maintenance overlap caused the market price to reach \$800/gigajoule (**GJ**), being value of lost load pricing (**VoLL**).¹²

In its response, AEMO also noted that the Gas Market Consultative Committee (**GMCC**) discussed a revised protocol for maintenance planning in 2009. Under the associated Gas Rule change proposals, participants would provide AEMO with anticipated capacity at least one year in advance, to reflect planned maintenance. AEMO would release aggregated capacity, to encourage a market-based voluntary resolution to maintenance overlap. This proposal, however, had insufficient support in the GMCC and was abandoned.

Review outcomes

The AER is satisfied that AEMO's arrangements with respect to maintenance planning are adequate, based on its claim of no instances of threats to system security to date. If the MPP are adhered to, as well as regularly reviewed and revised as required, they are likely to assist AEMO in ensuring ongoing compliance with its obligations under clause 326.

2.2.3 Capacity information and facility allocations

Clauses 414 and 419 of the Gas Rules establish the following requirements for STTM participants:

- the STTM facility operator must notify AEMO on each gas day of the quantity of gas it expects to be delivered on each of the next three gas days
- on each gas day the allocation agent for an STTM facility must give AEMO an allocation notice for the preceding gas day.

¹² Part 2.1.2 of this report deals with this specific event.

During the STTM market trial period, the AER wrote to APA Group, Epic Energy, Jemena Eastern Gas Pipeline and SEA Gas to understand their compliance approach and arrangements with respect to these provisions.

In particular, the AER sought to identify whether these businesses had any implementation issues with the requirements of clauses 414 and 419, and to confirm their level of readiness for the STTM commencement on 1 September 2010. The businesses were also asked to provide a general overview of their systems and processes associated with determining, modifying and testing the data for accuracy in the STTM.

Response summary

APA Group, Epic Energy, Jemena Eastern Gas Pipeline and SEA Gas indicated they were ready for commencement of the STTM on 1 September 2010.

The overview of systems and procedures provided by the businesses highlighted that there has been a progressive transition from manual to automated systems to meet the data provision requirements under clauses 414 and 419.

APA Group, Epic Energy and SEA Gas raised a small number of compliance issues which occurred during the STTM trial and that, generally, were resolved early in the trial by the businesses or otherwise relate to problems associated with AEMO systems. Comparatively, Jemena appears to have experienced a greater level of difficulties with the STTM capacity information and facility allocations requirements.

For example, on 5 September 2010, Jemena failed to provide its allocation data pursuant to clause 419(1) of the Gas Rules due to a failure of its IT systems. In response to a further AER review, Jemena advised its systems were designed to originally support normal transmission pipeline operations, with the STTM placing new and additional demands. Jemena has committed to continue its process of devising solutions to improve overall reliability.

Review outcomes

Based on the information provided by APA Group, Epic Energy, SEA Gas and, to a lesser extent, Jemena Gas Pipeline, it appears the STTM trial period allowed for a number of potential compliance issues to be identified and resolved by most participants prior to 1 September 2010.

Failure to provide the prescribed data could impair the allocative efficiency of the STTM by sending distorted market signals. As reported in part 2.1.5 of this report, the AER is now actively monitoring the performance of businesses to ensure their systems comply with the STTM capacity information and facility allocations requirements of the Gas Rules.

2.2.4 Upcoming targeted compliance reviews

The AER will continue to target provisions under the Gas Rules as part of its ongoing compliance review process. The gas provisions that the AER intends targeting in the coming quarters :¹³

- scheduling submission requirements (clause 213)
- failure to conform to scheduling instructions (clause 216)
- obligations of connected parties (clause 270).

STTM obligations will also be targeted with a view to enhancing awareness of participants' obligations. These include the various information requirements and arrangements established under clauses 380 to 383 of the Gas Rules.

A list of gas provisions targeted over the past four quarters is provided in appendix A of this report.

¹³ The AER will endeavour to give, via its quarterly compliance reports, advance notice of forthcoming targeted compliance reviews. This information is indicative only and the listed provisions may not be targeted subject to prevailing operational requirements and other industry events. The AER will also target other provisions by using other compliance and enforcement mechanisms, as required.

3 Electricity

The AER is responsible for monitoring, investigating and enforcing compliance with the national electricity arrangements under the Electricity Law and Rules.

3.1 Investigations, market events and compliance issues

This part of the report provides an update on:

- completed investigations¹⁴
- market events
- other compliance matters and issues.

The AER monitors the performance of the NEM on an ongoing basis to screen for issues of non-compliance. Monitoring relies on public data and information provided by AEMO and other entities. This part of the report therefore also covers such market activities as monitoring of high prices and rebidding.

3.1.1 Compliance with clause 5.6.6 of the Electricity Rules

In September 2010, the AER released its investigation report into the compliance by TransGrid with clause 5.6.6 of the Electricity Rules in regard to a proposed 330kV transmission line from Dumaresq to Lismore.¹⁵

The Electricity Rules require a Network Service Provider (**NSP**) who proposes to establish a new transmission asset to comply with various planning and consultation procedures, including the conduct of the Regulatory Test established by the AER. These processes aim to ensure that planning for new investment is transparent and that consultation to elicit alternative proposals is effective. Further, they are designed to ensure that non-network alternatives (such as generation and demand management) are considered on a level playing field with network options.

The AER has found shortcomings in the process undertaken by TransGrid in reaching its decision to build the line. Key areas of concern were that:

¹⁴ Published investigation reports issued by the AER are available from its website at <http://www.aer.gov.au/content/index.phtml/itemId/656186>.

¹⁵ A copy of this report is available from <http://www.aer.gov.au/content/index.phtml/itemId/739797>.

- the application notice did not contain an adequate analysis of all reasonable network and non-network options
- neither the application notice (April 2008) nor the final report (March 2009) adequately examined the potential for material inter-network impacts
- the final report did not summarise or respond to submissions on the application notice
- the decision to limit the Regulatory Test analysis to a single reasonable scenario was inadequately justified and did not meet the requirement to provide a detailed description on why TransGrid considered the asset passed the Regulatory Test.

The investigation report notes that TransGrid undertook further consultation by issuing a Request for Proposals in May 2010 that sought non-network alternatives in the far north coast region. TransGrid has provided the AER with a series of commitments to improve future processes.

Given the scale of investment in transmission infrastructure—considered as part of the AER regulatory determination process—and to assist in better understanding how effectively the Regulatory Test is being applied, the AER will continue to identify key transmission projects to assess and publicly report on the rigour in which the process is applied by NSPs.

3.1.2 Metering

Chapter 7 imposes obligations relating to the provision and maintenance of metering installations, registration of metering data and the testing and auditing of meters. It also requires registered participants and metering providers to comply with the Market and Settlement Transfer Solution (**MSATS**) procedures and Business to Business (**B2B**) procedures.

As noted in previous quarterly compliance reports, the AER is targeting compliance with the MSATS procedures in 2010. This included assessing AEMO's monthly MSATS compliance reports and holding regular meetings with AEMO to discuss the compliance of participants and service providers. In the December 2010 quarter, the AER will continue its MSATS compliance work, as well as targeting the B2B procedures, with a particular focus on Customer Site Details Notification (**CSDN**) processes and Service Orders process.

In the September 2010 quarter, the AER also considered a request for no action for non-compliance regarding the current transformers (CT) testing requirements under Schedule 7.3.2 of the Electricity Rules.

The distributor in question sought an exemption for testing some of its CTs by the 10th year, since it intended to upgrade these CTs in the same year. The AER agreed not to pursue action for non-compliance, subject to the distributor agreeing to certain conditions, including that no CT will exceed 11 years between tests.

3.1.3 Rebidding

Scheduled generators and market participants operating in the NEM submit wholesale electricity offers and bids for each of the 48 intervals in a trading day. The offers and bids include available capacity in Mega Watts (MW) for up to 10 price bands, and can be varied through rebidding¹⁶.

Table 2 below summarises the number of compliance issues reviewed by the AER in the September 2010 quarter. Enquiries into some of these rebids are continuing.

Over the same period, the AER also reviewed a rebid relating to unit availability, which was made in error. The relevant participant—Tarong Energy—promptly reported this to the AER and has taken appropriate remedial action.

¹⁶ Market participants must provide to AEMO, at the same time as a rebid is made, a brief, verifiable and specific reason for the rebid, plus the time at which the reason for the rebid occurred. Equivalent requirements apply where AEMO is advised, under clause 3.8.19 of the Electricity Rules, that a unit, service or load is inflexible. Clause 3.8.22A of the Electricity Rules requires that dispatch offers, dispatch bids and rebids are made in “good faith”

Table 2: Rebidding reviews

Electricity Rules clause	Compliance issue	No. of participants under review
3.8.19(b)(1)	The rebid submitted does not provide a brief, verifiable and specific reason why the scheduled generating unit, scheduled network service or scheduled load is inflexible	3
3.8.22(c)(2)(i)	The rebid submitted does not provide a brief, verifiable and specific reason for the rebid	6
3.8.22(c)(2)(ii)	The rebid submitted does not include the time at which the event(s) or other occurrence(s) adduced by the scheduled generator or market participant as the reason for the rebid occurred	18

The AER Rebidding and Technical Parameters Guideline¹⁷ has been in place for almost a year, however, the AER is yet to observe an acceptable level of improvement in the quality of bid and rebid reasons provided by generators. It is common for the AER's compliance monitoring systems to identify numerous non-compliant bids and rebids per week. The majority of these failures are due to basic errors, such as:

- absence of the time adduced
- failure to include a reason for a rebid or using a non-specific reason (e.g. testing)
- bidding inflexible for a non-technical reason
- submitting a ramp rate that is lower than the threshold allowed in the Electricity Rules, without providing the required additional information to AEMO.

While individually these errors do not have a major market impact, if participants frequently submit non-compliant bids and rebids, collectively they can have serious adverse consequences.

¹⁷ See <http://www.aer.gov.au/content/index.phtml/itemId/730883>.

In particular, poor quality information affects the AER's ability to monitor and enforce compliance with the Electricity Rules (including the requirement to submit rebids in good faith). The quality of information available to industry participants is also jeopardised, thereby reducing market efficiency.

As a consequence, the AER is reviewing its approach to compliance and enforcement in this area with a view to implement a new process by the end of 2010.

3.1.4 Spot and ancillary services high price events

The AER is required to publish a report¹⁸ covering the circumstances in which the spot price in the wholesale electricity market exceeds \$5,000 per Mega Watt hour (MWh) in a trading interval or where the price for ancillary services exceeds the spot price and is above \$5000 for a number of trading intervals. These reports help identify instances of non-compliance and enhance the transparent operation of the NEM.

There were various instances of spot prices exceeding \$5000/MWh during the September 2010 quarter. The relevant dates and regions are:

- 7 and 8 August 2010 — Tasmania
- 10 August 2010 — New South Wales.

Related to these AER reports, in July 2010 the Australian Energy Market Commission (AEMC) issued its final determination with respect to a Rule change extending the timeframe for the AER to publish reports on trading intervals in which the spot price exceeds \$5,000/MWh. The timeframe for publication of these reports has been extended from 20 to 40 business days from the end of the week during which the spot price exceeded \$5,000/MWh. Notwithstanding this, and subject to operational requirements, the AER will endeavour to publish such reports as early as possible.

¹⁸ Pursuant to clause 3.13.7 (d) and (e) of the Electricity Rules. The reports are available on the AER website at <http://www.aer.gov.au/content/index.phtml/itemId/714860>.

3.2 Audits

Auditing is one mechanism used by the AER to verify and assess compliance by registered participants with their obligations. The audits aim to ensure participants have robust and effective compliance programs in place.

There are two main types of audits:

- audits of internal systems and processes
- technical audits focusing on compliance with technical performance standards.

During the September 2010 quarter, the AER:

- conducted a site visit of TransGrid and is concluding its review of this NSP's compliance arrangements relating to the reliable operation of protection and control facilities in accordance with Schedule 5.1 of the Electricity Rules
- commenced its technical audit of the Queensland generator, Tarong Energy, which will focus on the requirements to meet specified technical performance standards and to institute and maintain a compliance program, pursuant to clause 4.15 of the Electricity Rules.

From 2011, the AER will conduct technical audits of two generators every 6 months and a NSP every year, to encourage participants to have robust and effective technical compliance programs and adopt good electricity industry practice at all times.

3.3 Targeted compliance reviews

Targeted reviews are an important part of the AER's compliance monitoring activity. The AER generally targets at least 24 Electricity Rules provisions for detailed review each year. Table 3 below lists the provisions targeted in the September 2010 quarter.¹⁹

¹⁹ Appendix A of this report lists all provisions targeted over the last four quarters.

Table 3: Electricity Rules—provisions targeted for review

Electricity Rules clause	Relevant parties (subject to the current review)	Obligation	No. of targeted participants
3.7.3	Market Participants	Short term projected assessment of system availability (ST PASA)	3
4.9.4	Scheduled Generators and Semi-Scheduled Generators	Dispatch related limitations	2
7.5.2	Responsible persons	Metering register discrepancies	2

3.3.1 Short term projected assessment of system availability

Quality of information is extremely important for the effective functioning of the NEM. Clause 3.7.3 relates to the ST PASA processes and requires, among other things, scheduled generators to submit to AEMO inputs that must represent the scheduled generators' current intentions and best estimates of:

- availability of each scheduled generating unit, scheduled load or scheduled network service for each trading interval under expected market conditions
- PASA availability of each scheduled generating unit, scheduled load or scheduled network service for each trading interval
- scheduled generating unit synchronisation and de-synchronisation times for slow start generating units
- projected daily energy availability for energy constrained scheduled generating units and energy constrained scheduled loads.

ST PASA inputs must also be submitted in accordance with the prescribed timetable.

In February 2010, to promote better practices and clarify requirements, the AER issued a compliance bulletin on providing and updating market participant availability.²⁰

As part of this targeted compliance review, the AER sought from CS Energy, ERM Power and Millmerran Energy Trader, details of:

²⁰ Available from <http://www.aer.gov.au/content/index.phtml/itemId/692887>.

- the systems and processes used to determine, modify and review ST PASA inputs
- any changes to the above, following the AER's release of the compliance bulletin.

Response summary

The three generators involved in this review each referred to established procedures that see relevant trading and generator plant personnel interact with one another to determine and modify PASA inputs, as required.

For the purposes of clause 3.7.3, the participants use a variety of tools, including plant modelling and performance curves that determine plant ratings for given conditions. The prevalent review mechanism used to test the accuracy of ST PASA inputs is a comparison between actual against forecast data.

On the issue of changes to ST PASA inputs, since Millmerran is a coal fired baseload generator that is mostly dispatched at full availability each day (subject to operational limitations or outages), its inputs tend to be predictable and change little over time. In contrast, although ERM Power's Braemar 2 is an open-cycle gas fired power station, its ST PASA inputs too do not warrant frequent changes. This is because this plant's outages are said to occur at very short notice and are typically rectified quickly.

CS Energy and ERM Power confirmed that their systems and processes required no change following the above AER compliance bulletin. On the other hand, Millmerran Energy Trader implemented a weather-related process.

Review outcomes

Failing to publish information regarding the short term PASA could undermine participants' confidence in the power system and potentially compromise its security and reliability. From the information and advice received from CS Energy, ERM Power and Millmerran Energy Trader, it appears each has appropriate ST PASA arrangements in place, if properly applied.

The AER takes this opportunity to urge all generators and market participants to ensure their practices are consistent with the compliance bulletin.

3.3.2 Dispatch related limitations

Generally, scheduled and semi-scheduled generators in the NEM must not generate electricity unless instructed to do so by AEMO, or with AEMO's consent. This limitation is paramount unless the generator holds the reasonable opinion that failure to undertake one of the limited actions would create a threat to public safety, or create damage to the environment or equipment.

The AER wrote to Alinta Energy Limited and Loy Yang Marketing Management Company about their compliance with clause 4.9.4 of the Electricity Rules, which sets out the dispatch limitations on generators.

The requested information included:

- the criteria used to determine what constitutes a threat to public safety, or a material risk of damaging the environment or equipment
- the systems and processes used to ensure compliance with the dispatch related limitations set out in clause 4.9.4, specifically including training and review mechanisms
- any instances of non-compliance in the last 12 months and how those instances are recorded and notified to AEMO.

Response summary

Alinta Energy and Loy Yang Marketing Management Company identified the overarching policies that govern their risk management procedures, including risk assessment criteria. Both employ a top-down approach whereby, for instance, a company-wide compliance policy is focused through a risk assessment process to determine operational procedures that ensure dispatch limitations are adhered to.

Alinta Energy referenced the specific procedures in its operational manuals governing compliance and communication in respect of each sub-clause under 4.9.4. To monitor compliance it undertakes monthly exceptions reporting from which actual and potential breaches are identified and addressed.

Loy Yang Marketing Management Company included a brief description of how compliance and appropriate communication was ensured in respect of each sub-clause under 4.9.4. In particular, all new unit controller staff undertake a six month intensive full-time training course to make staff aware of their obligations under the Electricity Law and Rules and of relevant processes to ensure compliance. This is supplemented by ongoing monitoring and training as needed.

Alinta Energy advised that no instances of non-compliance had occurred during the period under review, but did identify two instances where it successfully sought the approval of AEMO to undertake actions limited by sub-clauses 4.9.4(d) and (f), respectively.

In contrast, Loy Yang Marketing Management Company indicated that a number of instances of non-compliance had occurred during the past 12 months but that remedial action (in the form of refresher training) had been undertaken to prevent recurrence.

Review outcomes

The AER is satisfied that Alinta Energy and Loy Yang Marketing Management Company demonstrated sufficient awareness of their obligations under clause 4.9.4 of the Electricity Rules and have systems and procedures in place that, if properly applied, will assist compliance.

3.3.3 Metering register obligations

Under clause 7.5.1 of the Electricity Rules, AEMO is required to maintain a metering register of all metering installations which provides metering data used for AEMO account statements.

As provided under clause 7.5.1(b), the metering register must contain the information specified in Schedule 7.5 of the Electricity Rules, such as connection and metering point reference details, characteristics of metering equipment, and data communication details.

AEMO must advise registered participants if the information in the register indicates the metering installation does not comply with applicable requirements. On receiving this notification, clause 7.5.2(b) requires the responsible person to arrange for the discrepancy to be corrected within two business days unless exempted by AEMO.

The AER has written to two Local Network Service Providers (**LNSP**)—Jemena and Country Energy—to understand their compliance arrangements relating to the above provisions.

While Jemena responded to all enquiries, Country Energy has required additional time to address issues under review. As a result, the details of responses will be published in the next compliance report for the December 2010 quarter. At the same time, the AER will also extend this compliance review to other LNSPs and publish results in that report.

3.3.4 Upcoming targeted compliance reviews

To promote transparency the AER provides a forward indication of provisions it may target in the future. Table 4 below highlights the electricity provisions the AER intends to target in the coming quarters.

Table 4: Electricity Rules—future targeted provisions²¹

Electricity Rules Clauses	Compliance issue
3.13.12	National Metering Identifier (NMI) standing data
4.5.2	Reactive power reserve requirements
4.9.4A	Ancillary services instructions
7.5.2	Metering register discrepancies
7.6.2	Actions in relation to metering installation non-compliance
9.4.4	Jurisdictional derogations relating to:
9.12.3	Smelter Trader; Power Traders; Exempted Generators
9.34.6	

²¹ The AER will endeavour to give, via its quarterly compliance reports, advance notice of forthcoming targeted compliance reviews. This information is indicative only and the listed provisions may not be targeted subject to prevailing operational requirements and other industry events. The AER will also target other provisions by using other compliance and enforcement mechanisms, as required.

3.4 Jurisdictional derogations

Chapter 9 derogations²² exempt Victorian smelter traders, New South Wales power traders and Queensland nominated generators (for the purposes of exempted generator agreements) from complying with the Electricity Rules to the extent there exists:

- any inconsistency between the Rules and a contractual requirement under the relevant agreement between the government and other entities
- any other specified exemption in the jurisdictional derogations.

The relevant participants must give notice to the AER of any act or omission which partly or wholly constitutes non-compliance with the Electricity Rules. In the September 2010 quarter, these participants advised the AER that, for the purpose of clauses 9.4.4, 9.12.3 and 9.34.6 of the Electricity Rules, there were no instances of non-compliance that materially affected the efficient operation of the NEM.

²² Refer to clauses 9.4.3 (Smelter Trader – Vicpower Trading), 9.12.3 (Power Traders – Delta Electricity and Macquarie Generation) and 9.34.6 (nominated generators – CS Energy and Stanwell Corporation) of the Electricity Rules.

Appendix A: Targeted rule provisions summary

This is a summary of the provisions under the Electricity Rules and Gas Rules targeted for compliance reviews over the last four quarters. The same provision may be targeted over a number of quarters.

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
December 2009	Gas	Rule 324	Participant disclosure obligations	2
		Rule 333	Emergency (declaration and notification by participants)	2
	Electricity	Clause 5.2.3	Obligations of NSPs (consistency between connection agreements and Schedule 5.1 of the Electricity Rules)	2
		Clause 7.2.5	Role of the responsible person (relating to metering service providers)	2
March 2010	Gas	Rule 270	Obligation of connected parties	2
		Rule 272	AEMO to approve application for connection to the declared transmission system	1
		Rule 275	Approval of connection agreements by AEMO	1
	Electricity	Clause 3.8.2	Participation in central dispatch	1

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
		Clause 4.6.1	Power system fault levels	1
		Clause 5.2.4	Obligation of customers	3
		Clause 5.2.4	Obligation of customers	3
		Clause 7.3.1	Metering installation requirements	2
June 2010	Gas	Rule 270	Obligation of connected parties	1
		Rule 289	Off-specification gas	2
		Rule 263	Margin calls	1
	Electricity	Clause 2.2.2	Registration of Scheduled Generators	3
		Clause 3.8.2	Participation in central dispatch	1
		Clause 7.3.1	Metering installation requirements	2
September 2010	Gas	273	Offer to connect	1
		326	Maintenance planning	1

Quarter ending	Industry	Rules & Clauses	Description	No. of Participants
		414-419	Capacity information & facility allocations	4
	Electricity	3.7.3	Short term projected assessment of system availability	3
		4.9.4	Dispatch related limitations on generators	2
		7.5.2	Metering register discrepancies	2